

JCWS 2 0 AUG 2004

AUG-20-04 FRI 02:17 PM SALIWANCHIK

FAX NO. 3523725800

P. 01

FACSIMILE COVER SHEET

**SALIWANCHIK, LLOYD & SALIWANCHIK**

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**TO:** Office of Initial Patent Examination's Filing Receipt Corrections

**COMPANY:** United States Patent Office

**FAX NO.:** 703-746-9195

**FROM:** Jay M. Sanders

**DATE:** August 20, 2004

**NUMBER OF PAGES (INCLUDING COVER SHEET):** 7

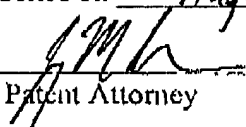
**SUBJECT/MESSAGE:**

Re: U.S. Patent Application Docket No. MA-43CDF2D4  
NOVEL BACILLUS THURINGIENSIS ISOLATE ACTIVE AGAINST  
LEPIDOPTERAN PESTS, AND GENES ENCODING NOVEL LEPIDOPTERAN-  
ACTIVE TOXINS  
(Payne, Sick)  
Serial No. 10/825,751; filed April 16, 2004

If you do not receive all pages or if any transmission is not legible, call the sender at (352) 375-8100.

HA\FacFax\OI-R.correct.doc/DND\J

I hereby certify that this correspondence is being  
facsimile transmitted to the United States Patent  
and Trademark Office on August 20, 2004.

  
Jay M. Sanders, Patent Attorney

REQUEST FOR CORRECTION OF  
FILING RECEIPT

Examining Group 1653

Patent Application

Docket No. MA-43CDF2D4

Serial No. 10/825,751

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit : 1653  
Applicants : Jewel Payne, August J. Sick  
Serial No. : 10/825,751  
Filed : April 16, 2004  
Conf. No. : 8529  
For : Novel *Bacillus thuringiensis* Isolate Active Against Lepidopteran Pests, and  
Genes Encoding Novel Lepidopteran-Active Toxins

Assistant Commissioner for Patents  
Office of Initial Patent Examination  
Customer Service Center  
Washington, D.C. 20231

REQUEST FOR CORRECTION OF FILING RECEIPT

Sir:

Applicants respectfully request the correction of an error in the Filing Receipt for the above-identified patent application. Please send a corrected Filing Receipt with the following change:

The Filing Receipt lists the first inventor of the application as:

Jewel Payne

The correct name of the first inventor is:

Jewel Payne

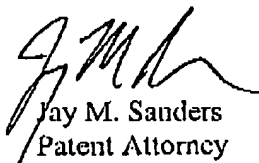
J:\Myogen\USMA-43CDF2D\PTO\req corr. fil. receipt.doc\DNF\amh

2

Docket No. MA-43CD12D4  
Serial No. 10/825,751

A copy of the Filing Receipt containing the error, along with a copy of the Utility Patent Application Transmittal form and Fee Transmittal Form showing the correct name of the first inventor of the subject application, is attached.

Respectfully submitted,

Jay M. Sanders  
Patent Attorney

Registration No. 39,355

Phone No.: 352-375-8100

Fax No.: 352-372-5800

Address: 2421 N.W. 41st Street, Suite A-1  
Gainesville, FL 32606-6669

JMS/amh

Attachments: copy of Filing Receipt with error noted thereon; copy of Utility Patent Application Transmittal form; copy of Fee Transmittal Form.

J:\Mycogen\US\MA-43CD12D4\PTO\req.curr.fil receipt.doc/DNB/amh



## UNITED STATES PATENT AND TRADEMARK OFFICE

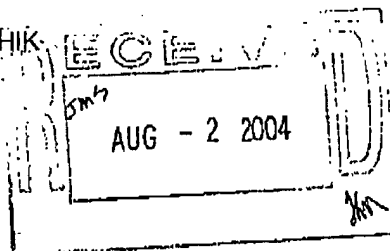
UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
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 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/825,751	04/16/2004	1653	770	MA-43CDF2D4	1	9	3

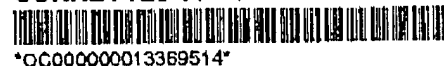
CONFIRMATION NO. 8529

23557

SALIWANCHIK LLOYD & SALIWANCHIK  
 A PROFESSIONAL ASSOCIATION  
 2421 N.W. 41ST STREET  
 SUITE A-1  
 GAINESVILLE, FL 32606-6669



CORRECTED FILING RECEIPT



\*OC000000013369514\*

Date Mailed: 07/29/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

## Applicant(s)

*should be "Payne"*  
 Jewel Payne San Diego, CA;  
 August J. Sick, Oceanside, CA;

## Assignment For Published Patent Application

Mycogen Corporation, Indianapolis, IN;

## Domestic Priority data as claimed by applicant

This application is a DIV of 09/837,961 04/19/2001 PAT 6,737,273  
 which is a DIV of 09/521,344 03/09/2000 PAT 6,573,240  
 which is a DIV of 08/933,891 09/19/1997 PAT 6,096,708  
 which is a CON of 08/356,034 12/14/1994 PAT 5,691,308  
 which is a CON of 08/210,110 03/17/1994 ABN  
 which is a CON of 07/865,168 04/09/1992 ABN  
 which is a DIV of 07/451,261 12/14/1989 PAT 5,188,960  
 which is a CIP of 07/371,955 06/27/1989 PAT 5,126,133

## Foreign Applications

If Required, Foreign Filing License Granted: 06/18/2004

Projected Publication Date: 09/30/2004

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Novel *Bacillus thuringiensis* isolate active against lepidopteran pests, and genes encoding novel lepidopteran-active toxins

**Preliminary Class**

514

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**LICENSE FOR FOREIGN FILING UNDER  
Title 35, United States Code, Section 184  
Title 37, Code of Federal Regulations, 5.11 & 5.15**

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PTO/SB/05 (01-04)

Approved for use through 07/31/2008, OMB 0651-0032

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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<b>UTILITY PATENT APPLICATION TRANSMITTAL</b>  (Only for new nonprovisional applications under 37 CFR 1.53(b))	Attorney Docket No.	MA-43CDF2D4
	First Inventor	Jowel Payne
	Title	Novel Bacillus thuringiensis Isolate Active Against...
	Express Mail Label No.	ER 717563027 US

<b>APPLICATION ELEMENTS</b> See MPEP chapter 800 concerning utility patent application contents.	<b>ADDRESS TO:</b> Mail Stop Patent Application Commissioner for Patents P.O. Box 1450 Alexandria VA 22313-1450
-----------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------

1. ☒ Fee Transmittal Form (e.g., PTO/SB/17)  
(Submit an original and a duplicate for fee processing)
2. ☐ Applicant claims small entity status.  
See 37 CFR 1.27.
3. ☒ Specification [Total Pages 22]  
(preferred arrangement set forth below)
  - Descriptive title of the invention
  - Cross Reference to Related Applications
  - Statement Regarding Fed sponsored R & D
  - Reference to sequence listing, a table, or a computer program listing appendix
  - Background of the invention
  - Brief Summary of the invention
  - Brief Description of the Drawings (if filed)
  - Detailed Description
  - Claim(s)
  - Abstract of the Disclosure
4. ☒ Drawing(s) (35 U.S.C. 113) [Total Sheets 1]
5. Oath or Declaration [Total Sheets 3]
  - a. ☐ Newly executed (original or copy)
  - b. ☒ Copy from a prior application (37 CFR 1.63(d))  
(for continuation/divisional with Box 18 completed)
    - i. ☐ DELETION OF INVENTOR(S)  
Signed statement attached deleting inventor(s) name in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).
6. ☐ Application Data Sheet. See 37 CFR 1.76

7. ☐ CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)
8. Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)
  - a. ☒ Computer Readable Form (CRF)
  - b. Specification Sequence Listing on:
    - i. ☐ CD-ROM or CD-R (2 copies); or
    - ii. ☒ Paper
  - c. ☒ Statements verifying identity of above copies

**ACCOMPANYING APPLICATION PARTS**

9. ☐ Assignment Papers (cover sheet & document(s))
10. ☐ 37 CFR 3.73(b) Statement (when there is an assignee) ☐ Power of Attorney
11. ☐ English Translation Document (if applicable)
12. ☐ Information Disclosure Statement (IDS)/PTO-1449 ☐ Copies of IDS Citations
13. ☐ Preliminary Amendment
14. ☒ Return Receipt Postcard (MPEP 503)  
(Should be specifically itemized)
15. ☐ Certified Copy of Priority Document(s)  
(if foreign priority is claimed)
16. ☐ Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.
17. ☒ Other: Assignee Information Certificate of Express Mailing

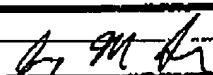
18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in the first sentence of the specification following the title, or in an Application Data Sheet under 37 CFR 1.76:

☐ Continuation ☒ Divisional ☐ Continuation-in-part (CIP) of prior application No.: 09/837,961

Prior application information: Examiner Gabriele E. Bugaisky Art Unit: 1653  
 For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5a, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

**19. CORRESPONDENCE ADDRESS**

☒ Customer Number: 23557 OR ☐ Correspondence address below

Name					
Address					
City	State	Zip Code			
Country	Telephone	Fax			
Name (Print/Type)	Jay M. Sanders	Registration No. (Attorney/Agent)	39,355		
Signature			Date	April 16, 2004	

This collection of information is required by 37 CFR 1.53(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/17 (10-03)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**FEE TRANSMITTAL**  
**for FY 2004**

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 770.00)

**Complete if Known**

Application Number	
Filing Date	April 16, 2004
First Named Inventor	Jewel Payne
Examiner Name	
Art Unit	
Attorney Docket No.	MA-13GDF2D4

**METHOD OF PAYMENT (check all that apply)**☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☒ Deposit Account:

Deposit Account Number 19-0065

Deposit Account Name Salwanchik, Lloyd &amp; Sal

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments☒ Charge any additional fee(s) or any underpayment of fee(s)☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	770.00
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Refuse filing fee	
1005	100	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$ 770.00)

**2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE**

Total Claims	Independent Claims	Multiple Dependent	Extra Claims		Fee from below		Fee Paid
			Count	Rate	Count	Rate	
9	3		20	0	18	0	
			3	0	85	0	

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1202	18	2202	9	Claims in excess of 20	
1201	80	2201	43	Independent claims in excess of 3	
1203	290	2203	145	Multiple dependent claim, if not paid	
1204	88	2204	43	** Reissue independent claims over original patent	
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent	

SUBTOTAL (2) (\$ 0.00)

\*\*or number previously paid, if greater; For Reissues, see above

**FEE CALCULATION (continued)****3. ADDITIONAL FEES**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 0.00)

**SUBMITTED BY**

Name (Print/Type) Jay M. Sanders

Signature

Registration No. (Attorney/Agent)

38 355

(Complete if applicable)

Telephone 352-371-5111

Date

April 16, 2004

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